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HOUSE JOINT RESOLUTION 752
By Buck

A RESOLUTION directing a study relative to the electronic recording of custodial interrogations of criminal defendants.

WHEREAS, Senate Bill 2315/House Bill 3001 of the One Hundred Second General Assembly requires the electronic recording by law enforcement of custodial interrogations of defendants in criminal cases; and

WHEREAS, pursuant to Tennessee Code Annotated, Section 16-21-107, the Tennessee Judicial Council has the duty to report to the General Assembly on the advisability of legislation affecting the Council or the judicial system; and

WHEREAS, the Tennessee Judicial Council considered Senate Bill 2315/House Bill 3001 on February 21, 2002. While the Council did not recommend passage of the legislation because of its significant fiscal impact on state agencies and city and county governments, the Council stated in its review: "The Council does not disagree with the concept of taping interrogations, however the current budget restraints for all levels of government may prevent implementation at this time."; and

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WHEREAS, the Tennessee Supreme Court stated in State v. Godsey, 60 S.W.3d 729 (Tenn.2001), as follows:

There can be little doubt that electronically recording custodial interrogations would reduce the amount of time spent in court resolving disputes over what occurred during the interrogation. As a result, the judiciary would be relieved of much of the burden of resolving these disputes. In light of the slight inconvenience and expense associated with electronically recording custodial interrogations, sound policy considerations support its adoption as a law enforcement practice. However, "the determination of public policy is primarily a function of the legislature." Griffin v. Shelter Mut. Ins. Co., 18 S.W.3d 195, 200-01 (Tenn.2001). As we commented in State v. Odom, 928 S.W.2d 18, 23-24 (Tenn. 1996), the issue of electronically recording custodial interrogations "is one more properly directed to the General Assembly."; and

WHEREAS, the Tennessee Law Enforcement Advisory Council is required by statute "to monitor and evaluate the status of technological advancements and related issues to law enforcement in Tennessee"; now, therefore,

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE ONE HUNDRED SECOND GENERAL ASSEMBLY OF THE STATE OF TENNESSEE, THE SENATE CONCURRING, That the Tennessee Law Enforcement Advisory Council, established by Tennessee Code Annotated, Title 38, Chapter 13, Part 1, is hereby directed to study and evaluate all issues relevant to the electronic recording of custodial interrogations of defendants in criminal cases.

BE IT FURTHER RESOLVED, That in conducting research, making evaluations and formulating its recommendations, the Tennessee Law Enforcement Advisory Council shall include the following:

(1) Current practices and procedures of law enforcement agencies in Tennessee concerning the recording of interrogations;

(2) An inventory of equipment currently available to each state law enforcement agency for the recording of interrogations and the funding source for such equipment;

(3) Recommendation of a standard for recording custodial interrogations in Tennessee; and

(4) Estimated additional equipment improvements required to satisfy such recommended standard and detailed cost estimate for acquisition of such equipment.

BE IT FURTHER RESOLVED, That the Tennessee Law Enforcement Advisory Council shall seek the advice, counsel and input of representatives from the following organizations and entities during the course of its study: the Tennessee District Public Defenders Conference, the Tennessee Municipal League, the Administrative Office of the Courts, and law schools located in Tennessee.

BE IT FURTHER RESOLVED, That the Tennessee Law Enforcement Advisory Council shall report its interim findings to the House and Senate Judiciary Committees at the direction of the respective chairs during the out-of-session meeting of such committees to be held in the Fall of 2002.

BE IT FURTHER RESOLVED, That the Tennessee Law Enforcement Advisory Council shall submit the final report of its findings and recommendations, including any proposed legislation, to the House and Senate Judiciary Committees no later than the second legislative day of the First Regular Session of the 103rd General Assembly to be convened in January 2003.

BE IT FURTHER RESOLVED, That an enrolled copy of this resolution be transmitted to the Tennessee Law Enforcement Advisory Council, the Tennessee District Public Defenders Conference, the Tennessee Municipal League, and the Administrative Office of the Courts.